

§ 58-9-2. Reinsurance intermediaries.

(a) As used in this Article:

- (1) "Actuary" means a person who meets the standards of a qualified actuary, as specified in the NAIC Annual Statement Instructions, as amended or clarified by rule or order of the Commissioner, for the type of insurer for which an intermediary is establishing loss reserves.
- (2) "Broker" means any person, other than an officer or employee of a ceding insurer, who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the ceding insurer.
- (3) "Commissioner" includes the Commissioner's authorized deputies and employees.
- (4) "Controlling person" means any person who directly or indirectly has the power to direct or cause to be directed the management, control, or activities of an intermediary.
- (5) "Intermediary" means any person who acts as a broker, as defined in G.S. 58-33-10(3), in soliciting, negotiating, or procuring the making of any reinsurance contract or binder on behalf of a ceding insurer; or acts as a broker, as defined in G.S. 58-33-10(3), in accepting any reinsurance contract on behalf of an assuming insurer. "Intermediary" includes a broker or a manager, as those terms are defined in this section.
- (6) "Manager" means any person who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer (including the management of a separate division, department, or underwriting office) and acts as an agent for the reinsurer. The following persons are not managers, with respect to a reinsurer:
 - a. An employee of a reinsurer;
 - b. A United States manager of the United States branch of an alien reinsurer;
 - c. An underwriting manager who, pursuant to contract, manages all the reinsurance operations of a reinsurer, is under common control with the reinsurer under Article 19 of this Chapter, and whose compensation is not based on the volume of premiums written;
 - d. The manager of a group, association, pool, or organization of insurers that engages in joint underwriting or joint reinsurance and that is subject to examination by the insurance regulator of the state in which the manager's principal business office is located.
- (7) "Producer" means an insurance agent or insurance broker licensed under Article 33 of this Chapter or an intermediary licensed under this Article.
- (8) "Qualified United States financial institution" means a bank that:
 - a. Is organized, or in the case of a United States office of a foreign banking organization is licensed, under the laws of the United States or any state;
 - b. Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies; and
 - c. Has been determined by the Securities Valuation Office of the NAIC to meet its standards of financial condition and standing in order to issue letters of credit.

- (9) "Reinsurer" means any insurer that is licensed by the Commissioner and that is authorized to assume reinsurance.
- (b) No person shall act as a broker in this State if the broker maintains an office either directly, as a member or employee of a noncorporate entity, or as an officer, director, or employee of a corporation:
 - (1) In this State, unless the broker is a producer in this State; or
 - (2) In another state, unless the broker is a producer in this State or another state having a law or rule substantially similar to this Article or unless the broker is licensed under this Article as a nonresident intermediary.
- (c) No person shall act as a manager:
 - (1) For a reinsurer domiciled in this State, unless the manager is a producer in this State;
 - (2) In this State, if the manager maintains an office directly, as a member or employee of a noncorporate entity, or as an officer, director, or employee of a corporation in this State, unless the manager is a producer in this State;
 - (3) In another state for a foreign insurer, unless the manager is a producer in this State or another state having a law or rule substantially similar to this Article, or the manager is licensed in this State as a nonresident intermediary.
- (d) Every manager subject to subsection (c) of this section shall demonstrate to the Commissioner that he has evidence of financial responsibility in the form of fidelity bonds or liability insurance to cover the manager's contractual obligations. If any manager cannot demonstrate this evidence, the Commissioner shall require the manager to:
 - (1) Maintain a separate fidelity bond in favor of each reinsurer represented in an amount that will cover those obligations and which bond is issued by an authorized insurer; or
 - (2) Maintain an errors and omissions liability insurance policy in an amount that will cover those obligations and which policy is issued by a licensed insurer.(1993, c. 452, s. 19; 1995, c. 193, s. 20; 2001-203, s. 27; 2002-187, s. 2.7.)